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Inventor	:	Michael Hinnebusch
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BRIEF ON APPEAL
ON BEHALF OF APPELLANT

S I R :

This is an appeal from the Final Action of the Examiner dated 17 December 2008, finally rejecting claims 1, 3-18, 20-24, 27-43, 45, 48, 49, 51, 53, 57-64, 66-69, and 71-90 pending in this application.

A Notice of Appeal was filed on and a Petition for Extension of Time accompanies this Appeal Brief. Thus, the appeal and Appeal Brief is timely filed.

A Request for Oral Hearing will timely be filed after receipt of the Examiner's Answer.

Please charge the fee under 37 C.F.R. § 1.17, the fee for any Extension of Time for filing of this Brief, and any other fee necessary for filing this Brief on Appeal, or for further prosecution, to Deposit Account No. 50-0235.

I. Real Party In Interest

The real party in interest is the inventor, Michael Hinnebusch.

II. Related Appeals and Interferences

There are no related appeals or interferences believed to be related.

III. Status of Claims

Claims 1, 3, 5-6, 20, 62, 76-77 have been rejected pursuant to 35 U.S.C. 102(b); the Examiner contends that these claims are anticipated by Shaw et al. (US Patent Number 4,817,940)

Claim 4 has been rejected under 35 U.S.C. 103(a); the Examiner contends that claim 4 is obvious over Shaw et al., in view of Watterson et al. (US Patent Number 6,458,060) still in further view of Clem (US Patent Number 6,527,674).

Claims 7-11,14-18, 21-24, 27-40, 42-43, 45, 49, 51, 53, 57-59, 66-69, 71-73, 79-82, 85-87, and 89-90 have been rejected under 35 U.S.C. 103(a); the Examiner contends that these claims are obvious over Shaw et al., in view of Watterson et al. (US Patent Number 6,458,060).

Claims 12-13, 60, and 88 have been rejected under 35 U.S.C. 103(a); the Examiner contends that these claims are obvious over Shaw et al., in view of Watterson et al. (US Patent Number 6,458,060), in further view of Mahoney et al. (Patent Number 5,502,806).

Claims 63-64, 84, and 88 have been rejected under 35 U.S.C. 103(a); the Examiner contends that these claims are obvious over Watterson et al. (US Patent Number 6,458,060), in further view of Patterson et al. (Patent Number (6,052,512).

Claims 74-75 have been rejected under 35 U.S.C. 103(a); the Examiner contends that these claims are obvious over Shaw et al., in view of Watterson et al. (US Patent Number 6,458,060), in further view of Netpulse.com.

Note that claims 2, 19, 25, 26, 41, 46, 47, 50, 52, 54, 55, 56, 65, and 70 were cancelled.

Claims 1, 3-18, 20-24, 27-40, 42-45, 48, 49, 51, 53, 57-64, 66-69, 71-90 are on appeal.

IV. Status of Amendments Filed Subsequent to Final Rejection

There are none.

V. Summary of the Claimed Subject Matter

The claimed subject matter is believed to be summarized well in claim 1, which is as follows: A computer-aided method to produce a categorical innovation comparison illustration, the method including: conducting, with a computer, a plurality of database searches for articles having at least one occurrence of at least one innovation indicator for at least one organization during discrete time periods to produce a respective count by the computer of the articles in each of at least three innovation categories, the categories respectively separating internal innovations, external innovations, and innovations within at least one internal-external boundary spanning linkage; and producing a categorical innovation comparison illustration by forming, with said computer, at least one illustration in human-readable media, the at least one illustration including a first axis of time showing the time periods and a second axis showing the respective count in at least one of the innovation categories, the at least one illustration being in a number sufficient to produce ~~a~~ the categorical innovation comparison illustration.

More particularly, please see the chart below and note that one manner of viewing support for the claims is as follows:

1. An apparatus to produce an exercise routine personalized by a user, the apparatus including: a first computer system programmed so as to facilitate forming machine-readable instructions	… a method for creating a personalized exercise routine with at least one user interface used in connection with forming machine-readable instructions protected as private to a user subsequently carrying out the exercise routine on an exercise machine. Pg. 4, Para. 2, Lns. 6-9

corresponding to a personalized exercise routine, wherein said machine-readable instructions are protected as private to the user; a portable memory device storing the personalized exercise routine formed in the machine-readable instructions and received from the first computer system; and a second computer system programmed to carry out operations comprising user-triggered enabling of: translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine, controlling an exercise machine in carrying out the different personalized private exercise routine.	Note that a disk can be used too as memory means transported to an exercise machine for reading (signals representing the exercise routine) by the exercise machine. Pg. 32, Para. 3, Lns. 21-22 … machine-readable instructions protected as private to a user subsequently carrying out the exercise routine on an exercise machine. 10 It is still another object of the invention to provide such a method for providing the user with at least one user interface to define the personalized exercise routine, and / or to control the exercise machine to carry out the exercise routine on the exercise machine, said machine instructions protected as private to the user.. Pg. 4, Para. 4, Lns. 14-17
3. An apparatus to create a personalized exercise routine, the	Any of the embodiments herein can be carried out with the step of storing the

apparatus including: a first computer system programmed so as to provide at least one user interface that allows a user to select a type of exercise machine, and to create a private personalized exercise routine for a type of exercise machine that is selected; a second computer system programmed so as to carry out operations including translating the private personalized exercise routine, stored in and retrieved from a portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine; and wherein said second computer system is comprised of at least one of the types of exercise machine that carries out one said different exercise routine.	personal exercise routine Pg. 6, Para. 3, Lns. 24-25 …. with at least one user interface…user subsequently carrying out the exercise routine on an exercise machine, the method including the steps of: using the at least one user interface to enable the user to create the personal exercise routine… Pg. 7, Para. 1, Lns. 4-7 …using the at least one user interface to enable the user to create the personal exercise routine; associating the exercise routine with a first exercise machine to produce a first set of signals; translating the first set of signals into the machine-readable instructions; storing the personal exercise routine formed in the machine-readable instructions in a memory device; and engaging of the machine-readable instructions to control the exercise machine in carrying out the personal exercise routine. …Pg. 7, Para. 1, Lns. 6-11

4. The apparatus of claim 1, wherein the operations include storing, in a personal account, medical information and a charge card number respectively corresponding to the user, wherein said account is maintained as personal to the user.	Any of the embodiments herein can be carried out with the step of storing the personal exercise routine includes storing medical information and a charge card number for the user. Pg. 7, Para. 1, Lns. 6-11
5. The apparatus of claim 1, wherein the operations include forming a profile of the user; and maintaining the profile of the user as personal to the user.	Any of the embodiments herein can be carried out by including the step of forming a profile of the user; and protecting the profile of the user as private to the user... Pg. 7, Para. 3, Lns. 15-17
6. The apparatus of claim 3, wherein the operations include allowing a user profile to be formed and stored in a personal account that is maintained as personal to the user.	Any of the embodiments herein can be carried out by including the step of forming a profile of the user; and protecting the profile of the user as private to the user, along with said machine-readable signals. Pg. 7, Para. 3, Lns. 15-17
7. The apparatus of claim 3, wherein the exercise routine comprises a cardiovascular routine; and wherein signals corresponding to the exercise routine are communicated over a network to the different type of exercise	Any of the embodiments herein can be carried out with a computer network that provides users the ability to program a cardiovascular exercise routine on a personal computer and download the programmed routine to a piece of fitness equipment. Pg. 7, Para. 5, Lns. 21-23

machine.	
8. The apparatus of claim 3, wherein said operations include: allowing access, via a virtual private network, to a web-accessible library of modifiable preprogrammed routines; and allowing modification of said preprogrammed routines.	Any of the embodiments herein can be carried out with a virtual private network, the web-based system makes available a library of modifiable preprogrammed exercises and routines. Pg. 7, Para. 6, Lns. 24-25 through Pg. 8, Ln. 1
9. The apparatus of claim 3, wherein the first computer system is programmed so as to facilitate: selecting a type of cardiovascular fitness machine as the different type of exercise machine, and specifying a duration of an exercise, a number of time intervals, an intensity, and a speed for each of the intervals.	Any of the embodiments herein can be carried out with a customized routine creatable by selecting a type of cardiovascular fitness equipment, the duration of an exercise routine, a number of time intervals, exercise intensity, and a speed for each interval. Pg. 8, Para. 1, Lns. 2-4
10. The apparatus of claim 1, the first computer system is programmed so as to facilitate downloading and storing the exercise routine on the portable memory device that is physically transportable to said exercise machine to enable said user-triggered engaging step.	Any of the embodiments herein can be carried out with a customized routine stored by the system for future use or reference…subscribers to the system can walk in to a gym and swipe a credit card or smart card for access to the system. Any of the embodiments herein can be carried out with a card reader on the exercise

	equipment and/or at a reception desk. Pg. 8, Para. 2, Lns. 5-13
11. The apparatus of claim 10, wherein said storing includes storing by making an addition to a library of routines.	Any of the embodiments herein can be carried out with the customized routine added to the library. Pg. 8, Para. 3, Lns. 8-9
12. The apparatus of claim 3, further including wherein the operations include facilitating swiping at least one of a credit card or smart card for access to the different type of exercise machine.	Any of the embodiments herein can be carried out such that users who are not 10 gym subscribers to the system can walk in to a gym and swipe a credit card or smart card for access to the system. Pg. 8, Para. 4, Lns. 9-11
13. The apparatus of claim 12, wherein said swiping is carried out with a card reader on a reception admission control system.	Any of the embodiments herein can be carried out with a card reader on the exercise equipment and/or at a reception desk. Pg. 8, Para. 5, Lns. 12-13
14. The apparatus of claim 3, wherein the operations include providing to the first computer system, via communication over a network, an agreement to abide by gym rules.	Any of the embodiments herein can be carried out such that users must check availability of exercise equipment and acknowledge agreement with gym rules and regulations on a personal computer. Pg. 8, Para. 6, Lns. 14-16
15. The apparatus of claim 5, wherein the operations include storing, in said profile, a charge card number associated with the user.	Figure 12, boxes 59 and 60. Any of the embodiments herein can be carried out with online purchases that can be made using the system, e.g., by swiping a credit

	card. Pg. 8, Para. 7, Lns. 17-18
16. The apparatus of claim 3, wherein the operations include providing user access to the Internet at the exercise machine that carries out the one said different exercise routine.	… to provide ancillary features, such as Internet-type services, to those exercising on cardiovascular fitness equipment. Pg. 4, Para. 6, Lns. 21-22
17. The apparatus of claim 3, further including an interface for communicating at least some personal profile data between computer systems of different gyms.	Any of the embodiments herein can be carried out with personal profiles transferable between gyms utilizing the same system or linked systems. Pg. 8, Para. 8, Lns. 19-20
18. The apparatus of claim 15, wherein the operations include enabling, with the stored charge card number, carrying out an on line purchase from the different type of exercise machine while exercising.	Any of the embodiments herein can be carried out with online purchases that can be made using the system, e.g., by swiping a credit card. Any of the embodiments herein can be carried out with personal profiles transferable between gyms utilizing the same system or linked systems. Pg. 8, Paras. 8-9, Lns. 17-20
20. The apparatus of claim 3, wherein the first computer system is programmed so as to facilitate forming a set of exercise routines translated to control different types of exercise machine, and storing the set in the portable memory device.	Any of the embodiments herein can be carried out with personal profiles transferable between gyms utilizing the same system or linked systems. Any of the embodiments herein can be carried out with exercises that use multiple types of exercise equipment. Pg. 8, Paras. 9-10, Lns. 19-22

21. The apparatus of claim 5, wherein the operations include providing a control for at least one type of media including video, TV, e-mail, stock prices, news, horoscope, hobby information, Internet media, or an electronic magazine, the control being stored in the profile of the user.	Any of the embodiments herein can be carried out with the user enabled to view e-mail, stock prices, and/or news reports while exercising. Any of the embodiments …user entertained by viewing horoscopes, and/or reports on topics of interest and hobbies, presented via the system. Pg. 9, Paras. 1-2, Lns. 2-5 …forming a profile of the user; and protecting the profile of the user as private to the user, … Pg. 7, Para. 3, Lns. 15-17
22. The apparatus of claim 21, wherein the providing a control is carried out with two of the media.	Any of the embodiments herein can be carried out with visual and audio Internet media including but not limited to: reading and responding to E-mail; reviewing and receiving messages from a paging service; viewing weather reports; …listening to music; viewing music videos; …and shopping online. Pg. 15, Para. 3, Lns. 9-16
23. The apparatus of claim 21, wherein the providing a control is carried out with three of the media.	… control media presented to the user while on the exercise machine, for example, video, TV, electronic magazines, … hobby information, etc. Multimedia can be enabled or controlled by the profile…the present invention. Pg. 41, Para. 1, Lns. 2-8

24. The apparatus of claim 23, wherein the operations include implementing the control by displaying media at said different type of exercise machine.	…control media presented to the user while on the exercise machine… Pg. 41, Para. 1, Lns. 2-3
27. The apparatus of claim 7, further including a browser interface presented at said exercise machine to control Internet communication.	…providing a web browser interface on the computer screen of the exercise equipment. Pg. 11, Para. 9, Lns. 23-24… Any of the embodiments herein can be carried out with visual and audio Internet media including but not limited to: reading and responding to E-mail; reviewing and receiving messages from a paging service;… Pg. 15, Para. 3, Lns. 9-16
28. The apparatus of claim 3, further including a browser interface presented at said different type of exercise machine to control Internet communication.	Any of the embodiments herein can be carried out with visual and audio Internet media including but not limited to: reading and responding to E-mail; reviewing and receiving messages from a paging service… Pg. 15, Para. 3, Lns. 9-12 Figure 2 shows only treadmills 2 but the system 1 may include a variety of different types of fitness equipment. Pg. 31, Para. 8, Lns. 23-24.
29. The apparatus of claim 27,	Any of the embodiments herein can be carried

further including an interface for communicating the exercise routine to a controller between the Internet and the exercise machine.	out with text and graphics provided through a web browser interface to describe the Para.meters of an exercise routine. Pg. 14, Para. 4, Lns. 10-11
30. The apparatus of claim 28, further including an interface for communicating the exercise routine to a controller between the Internet and the different type of exercise machine.	Any of the embodiments herein can be carried out with tool sets offered to gym owners, …professionals, and for use in improving the design and performance of fitness equipment, through a web browser interface. Pg. 16, Para. 2, Lns. 2-8.
31. The apparatus of claim 5, wherein the operations include controlling with said profile to output to a display device and to a speaker jack at the exercise machine.	Multimedia can be enabled or controlled by the profile, with a speaker jack for headphones mounted on the exercise equipment. Pg. 41, Para. 1, Lns. 5-7.
32. The apparatus of claim 6, wherein the operations include controlling, with said profile, interaction with Internet communication while exercising by use of a device that is at least one of a video game joystick on said different type of exercise machine or a flexible touch pad on at least one handle of the different type of exercise machine.	Internet onto the viewable monitor. The format of the display is big and bold so as to be easily viewable by a person exercising. The person exercising can navigate the Internet by browser or in such ways as use a device such as a video game joystick, flexible touch pad on the handles of the equipment, or the browsing experience may be preprogrammed to be hands-free. Pg. 5, Para. 5 Ln. 24 through Pg. 6, Para. 1, Lns. 1-5.

33. The apparatus of claim 6, wherein the operations include controlling with said profile programmed, hands-free, Internet communication.	Internet onto the viewable monitor. The format of the display is big and bold so as to be easily viewable by a person exercising. The person exercising can navigate the Internet by browser… or the browsing experience may be preprogrammed to be hands-free. Pg. 9, Para. 10, Lns. 21-23.
34. The apparatus of claim 33, wherein said controlling includes controlling selectable content and presentation format coordinated with timing of the exercise routine.	Any of the embodiments herein can be carried out with hands-free programming allowing the user to select the content and presentation format at a time prior to beginning the exercise routine. Pg. 9, Para. 10, Lns. 23-25.
35. The apparatus of claim 6, further including a sensor monitoring heart rate at the different type of exercise machine, and wherein the operations include storing said heart rate in said user profile.	Any of the embodiments herein can be carried out with the system collecting data on the heart rate of the user exercising, and data on the actual speed and intensity of the exercise routine. Pg. 10, Para. 1-2, Lns. 3-7.
36. The apparatus of claim 35, wherein wherein the operations include: monitoring speed and intensity of the exercise routine; and storing said speed and said intensity in said user profile.	Any of the embodiments herein can be carried out with the system collecting data on the heart rate of the user exercising, and data on the actual speed and intensity of the exercise routine. Any of the embodiments herein can be carried out with the system collecting data electronically and then storing the data in

	system memory. Pg. 10, Para. 3, Lns. 6-7.
37. The apparatus of claim 36, further including an interface for communicating signals corresponding to said heart rate, said speed, and said intensity in an Internet communication sent to the user of the first computer system.	In a preferred embodiment, such detected information as heart rate, intensity, and speed are collected, stored, and analyzed in connection with the routine and health condition of the user, for later analysis. Pg. 33, Para. 2, Lns. 13-15.
38. The apparatus of claim 3, wherein the first computer system is programmed to facilitate utilizing a calendar function to schedule use of the different type of exercise machine.	Any of the embodiments herein can be carried out with the users using a calendar function to schedule a particular piece of exercise equipment for an individual date or series of dates. Pg. 10, Para.. 7, Lns. 16-18.
39. The apparatus of claim 3, wherein the first computer system is programmed so as to facilitate utilizing a calendar function to schedule use of a group of pieces of exercise machine.	Any of the embodiments herein can be carried out with the users using a calendar function to schedule a use of a group of pieces of exercise equipment, and order of use, for an individual date or series of dates. Pg. 10, Para. 8, Lns. 19-21.
40. The apparatus of claim 3, further including a virtual private network providing at least one user interface from the second computer system to the first computer system.	Any of the embodiments herein can be carried out such that the users of the system gain access to the virtual private network to schedule the exercise session. Any of the embodiments herein can be carried out such that the user selects the location, date, and time an exercise routine through a web browser

	interface. Pg. 19, Para. 3, Lns. 5-6.
42. The apparatus of claim 3, wherein the operations include formatting output at a display device at said different type of exercise machine, said formatting including selectable enlarging of the output.	Figure 3, by way of an overview, shows a treadmill 2 equipped with a computer **40** and a viewable monitor display **38,** a numeric keypad 96, a row of push buttons 98, and a joystick 100. Preferably the display on the monitor is formatted to be larger than the usual display on a comparably-sized computer screen to facilitate viewing from a greater distance while exercising. Bolding and highlighting are added features to enable this viewing. Pg. 33, Para. 1, Lns. 3-7.
43. The apparatus of claim 6, further including an interface enabling Internet navigation at said different type of exercise machine during exercising.	Any of the embodiments herein can be carried out with the user surfing the Internet while exercising on the fitness equipment. Pg. 11, Para. 7, Lns. 18-19.
45. The apparatus of claim 6, wherein the operations include: permitting, at direction of the user, access to an exercise report, and storing the report in the profile.	Any of the embodiments herein can be carried out with sensor data retrieved, manipulated, displayed, and formatted into reports using a personal computer and the host system. Any of the embodiments herein can be carried out with the reports stored for future reference. Any of the embodiments herein can be carried out with reports shared with other persons

	computers at the discretion of the user. Pg. 12, Paras. 8-10, Lns. 17-23.
48. The apparatus of claim 6, wherein the different type of exercise machine comprises one of at least a treadmill, an elliptical trainer, a stationary bike, a stationary ski machine, a stationary rowing machine, or a resistance type machine.	The present invention applies to all types of fitness equipment, particularly cardiovascular equipment, including but not limited to treadmills 2, elliptical trainers, stationary bikes, stationary ski machines, and stationary rowing machines. The present invention also applies to resistance type of equipment, such as weight lifting machines. Pg. 30, Para. 4, Lns. 18-21.
49. The apparatus of claim 6, wherein the first computer system is programmed so as to facilitate digitally specifying a location of the different type of exercise machine so that exercising is carried out at a location corresponding to at least one of a home, a home gym, a spa, an exercise facility of an apartment complex, and a hotel.	Any of the embodiments herein can be carried out with a single or several host systems available depending upon geography, functionality, and networking technology. Any of the embodiments herein can be carried out with the fitness equipment in the user's own home, at a gym or spa, at the exercise facility of an apartment complex, hotel, or motel. Pg. 13, Para. 5, Lns. 18-20.
51. The apparatus of claim 6, wherein the operations include maintaining a business operations database used in carrying out the translating.	Here or elsewhere accessible over the network 22, one can store or attend to all the tasks necessary to create, populate, and maintain a business operations database, including knowing what kinds of exercise

	equipment is at each site, and information for translating a routine on one machine into a routine for another. Pg. 32, Lns. 4-7.
53. The apparatus of claim 6, wherein the operations include forming a client profile database containing a profile for each of a plurality of users.	Any of the embodiments herein can be carried out with an operator of a host system creating and maintaining a client profile database containing a profile for each user subscribing to the system. Pg. 14, Para. 2, Lns. 1-4.
57. The apparatus of claim 6, wherein the operations include controlling output of visual and audio Internet media with said profile, the media including at least one of music, a video, multimedia, or chat.	Any of the embodiments herein can be carried out with visual and audio Internet media including but not limited to: …listening to music; viewing music videos; … checking movie reviews and listings; checking entertainment news and reports; reading book reviews; participating in chat rooms; …and shopping online. Pg. 15, Para. 3, Lns. 9-16.
58. The apparatus of claim 6, wherein the first computer system is programmed so as to facilitate optional viewing and configuring reports including intensity levels of the exercise routine and heart rate through a web browser interface.	Any of the embodiments herein can be carried out with the user enabled to view and configure reports to display data including intensity levels of the exercise routine and heart rate through a web browser interface. Pg. 15, Para. 7, Lns. 23-25.
59. The apparatus of claim 6, wherein the operations include providing, at	The person exercising can navigate the Internet by browser or in such ways as use a

the different type of exercise equipment, at least one user interface that includes a corresponding media display, the media from the group including at least one of video, audio, and text.	device such as a video game joystick, flexible touch pad on the handles of the equipment, or the browsing experience may be preprogrammed to be hands- free. … Pg 6, Lns 2-5 Any of the embodiments herein can be carried out with visual and audio Internet media including but not limited to: reading and responding to E-mail; … and shopping online. Pg 15, Para. 3, Lns 9-16
60. The apparatus of claim 6, wherein the operations include providing data to a resource pool database of available exercise machines.	Any of the embodiments herein can be carried out such that an operator of a host system creates a resource pool database of available exercise equipment. Pg 17, Para. 8, Lns 1-2.
61. The apparatus of claim 6, wherein the operations include enabling the user: logging on to the second computer system by inputting an identification number and password.	Figure 4 Any of the embodiments herein can be carried out such that the user logs on to the system and reviews profile information and revises information via a web browser interface, by inputting a subscriber identification number and password to gain access to the personal ... Pg. 17, Para. 8, Lns. 19-21.
62. The apparatus of claim 6, wherein the operations include of the user's birth date, gender, weight, height, or health	Any of the embodiments herein can be carried out such that the user inputs personal information including birth date, gender, weight, height, body fat composition, and

history.	health history. Pg. 17, Para. 8, Lns. 19-21.
63. The apparatus of claim 61, wherein the operations include facilitating input of membership of a gym into said profile.	Any of the embodiments herein can be carried out such that the user is prompted to indicate any gym membership, or if a home gym is available. Pg. 17, Para. 9, Lns. 22-23.
64. The apparatus of claim 63, wherein the operations include communicating location of the gym and a gym membership identification number to the first computer system.	Any of the embodiments herein can be carried out such that, if a gym membership exists, the name of gym, the gym location, and the gym membership identification number are input by the user. Pg. 17, Para. 10, line 24-Pg. 18, line 1.
66. The apparatus of claim 6, wherein the operations include providing a location indicator on the Internet to enable finding a gym capable of carrying out the translating.	The name of a gym and address 114 appears in the upper right hand corner of the screen. This is the name of the gym in which the fitness equipment is physical located. Figure 9; Pg. 29, Para. 5, lins 9-10.
67. The apparatus of claim 6, wherein the exercise routine on the portable memory device includes an instruction providing control over speed of the different type of exercise machine.	The system collects data on… the actual speed and intensity of the exercise. The system collects data electronically and then stores the data on the system. The system has the ability to allow people to retrieve, manipulate, display, and separately store this data. Pg. 6, Para. 1, Lns. 7-10.
68. The apparatus of claim 6, wherein the operations include setting a	The browser interface operates intermediate a web browser and the exercise equipment in

filter of at least one of web subject matter or content in said profile.	linking the user and local activity to the Internet, as well as in carrying out user profile instructions, flags, filters, and the like. Pg. 29, Para. 4, Lns. 16-18.
69. The apparatus of claim 6, wherein the operations include controlling permission for another to form a group of users.	Any of the embodiments herein can be carried out such that users belong to one or several groups. Pg. 23, Para. 3, Lns. 6-7.
71. The apparatus of claim 6, wherein the operations include accepting, with said second computer system, a gym registration application communicated from the first computer system.	Figure 4, Figure 12 Any of the embodiments herein can be carried out such that the system manages gym membership or interfaces with an existing system. Pg. 23, Para. 10, Lns. 23-24.
72. The apparatus of claim 1, wherein the operations include accepting a gym registration application over a network.	Figure 4, Figure 12 Any of the embodiments herein can be carried out such that the system manages gym membership or interfaces with an existing system. Pg. 23, Para. 10, Lns. 23-24.
73. The apparatus of claim 3, wherein the operations include accepting, with said second computer system, a gym registration application communicated from a computer of the user.	Figure 4, Figure 12 Any of the embodiments herein can be carried out such that the system manages gym membership or interfaces with an existing system. Pg. 23, Para. 10, Lns. 23-24.
74. The apparatus of claim 3, wherein the operations include managing,	Figure 4, Figure 12 Any of the embodiments herein can be carried

with said second computer system, a gym membership.	out such that the system manages gym membership or interfaces with an existing system. Pg. 23, Para. 10, Lns. 23-24.
75. The apparatus of claim 5, wherein the operations include managing gym membership, with said second computer system, including tracking fees of gym users and issuing invoices.	Figure 4, Figure 12 Any of the embodiments herein can be carried out such that the system tracks fees and dues owed by gyms users, issues invoices, and manages account balances. Pg. 23 Para. 11, Lns. 24 – Pg. 24 line 1.
76. An apparatus including: a computer system programmed so as to carry out the operations of translating a private personalized exercise routine, stored in and retrieved from a portable memory device, to a different private personalized exercise routine for each different type of user-selected exercise machine such that an exercise machine of at least one said type is controlled with one said different private personalized exercise routine.	Figure 12 In block **68** the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. Pg. 43, Para. 3, Lns. 8-9. It is another object of the present invention to provide a method for creating a personalized exercise routine with at least one user interface used in connection with forming machine-readable instructions protected as private to a user subsequently carrying out the exercise routine on an exercise machine. Pg. 4, Para. 3, Lns. 6-9
77. The apparatus of claim 76, wherein: the personalized exercise routine is	Note that a disk can be used too as memory means transported to an exercise

stored in the portable memory device with respect to a first user-selected type of exercise machine; and the operations include translating the exercise routine to an other type of user-selected exercise machine to enable carrying out the personalized exercise routine on the other type of exercise machine.	machine for reading (signals representing the exercise routine) by the exercise machine. Pg. 32, Para. 3, Lns. 21-22 In block **68** the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. Pg. 43, Para. 3, Lns. 8-9. …a method for creating a personalized exercise routine with at least one user interface used in connection with forming machine-readable instructions protected as private to a user subsequently carrying out the exercise routine on an exercise machine. Pg. 4, Para. 3, Lns. 6-9
78. The apparatus of claim 76, wherein said apparatus comprises a computer system, where the exercise routine is formed, and programmed so as to facilitate user-triggered downloading of the exercise routine to the portable memory device.	Figure 1, Figure 4 Note that a disk can be used too as memory means transported to an exercise machine for reading (signals representing the exercise routine) by the exercise machine. Pg. 32, Para. 3, Lns. 21-22
79. The apparatus of claim 78, further including a virtual private network that allows access to the computer system in downloading the exercise routine from	Preprogrammed fitness routines and Internet-type media are stored in memory that is part of the controller of the fitness equipment 2. Note that a disk can be used too as memory

the portable memory device.	means transported to an exercise machine for reading (signals representing the exercise routine) by the exercise machine. Pg. 32, Para.s 2-3, Lns. 8-12
80. The apparatus of any one of claims 1, 3, or 76, wherein the operation of translating is carried out within a home gym.	The fitness equipment may be in one's own home, at a gym or spa, the exercise facility of an apartment complex, hotel, or motel, etc. Pg. 31, Para. 2, Lns. 4-5
81. The apparatus of claim 76, wherein the operations include specifying Para.meters of the exercise routine including type of machine, duration of session, intensity level, and pattern of variation of the intensity level.	Any of the embodiments herein can be carried out with Para.meters of customized exercise routines, including information on type of equipment, duration of the exercise, and level and pattern of intensity, stored by the system. Pg. 14, Para. 8, Lns. 18-20
82. The apparatus of claim 77, wherein the different type of exercise machine comprises one of at least a treadmill, an elliptical trainer, a stationary bike, a stationary ski machine, a stationary rowing machine, or a resistance type machine.	Any of the embodiments herein can be carried out with the cardiovascular equipment comprising one of at least a treadmill, an elliptical trainer, a stationary bike, a stationary ski machine, a stationary rowing machine, and resistance type equipment. Pg. 13, Para. 1, Lns. 1-3
83. The apparatus of claim 77, further including a user computer programmed so as to specify a location	Over the network 22, e.g., by server access, one can also conduct a search for an exercise facility entering an indicator, such as a zip code, equipment type, city, or other such

corresponding to the different type of exercise machine.	location indicator, enabling a database search to find at least one suitable facility. Pg. 32, Para. 1, Lns. 9-11
84. The apparatus of claim 76, wherein the operations include controlling access to said exercise machine, via a virtual private network of computer devices corresponding to exercise machines, by associating a user identification name and a password to each of said devices.	Figure 1, Figure 4
85. The apparatus of claim 77, wherein the operations include forming a client profile database containing a profile for each of a plurality of users.	Any of the embodiments herein can be carried out with an operator of a host system creating and maintaining a client profile database containing a profile for each user subscribing to the system. Pg. 14, Para. 2, Lns. 4-6
86. The apparatus of claim 77, wherein the operations include facilitating access to a virtual private network in scheduling an exercise session in which the exercise routine is to be carried out, the scheduling being carried out through a web browser interface, and the scheduling including selecting a location, date, and time.	Any of the embodiments herein can be carried out with system users accessing the virtual private network to schedule the exercise session, through a web browser interface, selecting the location, date, and time the exercise routine to be accomplished. Pg. 14, Para. 10, Lns. 23-25
87. The apparatus of claim 86,	Any of the embodiments herein can be carried

wherein the operations include configuring web viewing through the web browser interface, including: configuring screens of the web browser, said web browser interface stored on the other exercise machine; and selecting types of content to be viewed while exercising.	out with users accessing the virtual private network to configure web viewing through a web browser interface, configuring screens of the web browser, which is part of the exercise equipment, and selecting types of content to be viewed while exercising, via the virtual private network. Pg. 15, Para. 1, Lns. 1-4
88. The apparatus of claim 86, wherein the operations include facilitating initiation of the exercise routine by receiving identification to the different type of exercise machine, the identification including at least one of a name and password on a keypad, information from a smart card to a reader, or information from a magnetic strip to a card reader.	Any of the embodiments herein can be carried out with users initiating an exercise session by mounting a piece of exercise equipment and presenting identification by keying in an identification name and password on a keypad, or through alternative technology such as a smart card or magnetic strip card reader. Pg. 15, Para. 2, Lns. 5-8
89. The apparatus of claim 76, wherein the operations include communication of an indicator of a gym capable of carrying out the translating.	Any of the embodiments herein can be carried out with the business operations database containing information on gym sites… Pg. 14, Para. 1, Lns. 1-3
90. The apparatus of claim 77, wherein the operations include facilitating accepting, with said computer system, a gym registration application from a user	Any of the embodiments herein can be carried out with an operator of a host system creating and maintaining a client profile database containing a profile for each user subscribing to the system. Pg. 14, Para. 2,

personal computer.	Lns. 4-6

VI. Grouping of Claims for Each Ground of Rejection Which Appellant Contests

A. Grounds of Rejection to be Reviewed on Appeal

1. Has the Examiner made a prima facie case of anticipation regarding the rejection of claims 1, 3, 5-6, 20, 62, 76-77 pursuant to 35 U.S.C. 102(b)?

2. Has the Examiner made a prima facie case of obviousness regarding the rejection of claim 4 pursuant to 35 U.S.C. 103(a)?

3. Has the Examiner made a prima facie case of obviousness regarding the rejection of claims 7-11, 14-18, 21-24, 27-40, 42-43, 45, 49, 51, 53, 57-59, 66-69, 71-73, 79-82, 85-87, and 89-90 pursuant to 35 U.S.C. 103(a)?

4. Has the Examiner properly rejected and made a prima facie case of anticipation or obviousness regarding the rejection of claims claims 78, 61, 48, 83 pursuant to either 35 U.S.C. 102(b) or 103(c)? (Examiner failed to include 78, 61, 48, 83 within any of the rejection statement headers, thought the claims are most closely rejected under paragraph 10 of the Examiner's Final Rejection.)

5. Has the Examiner made a prima facie case of obviousness regarding the rejection of claims 12-13, 60 and 88 pursuant to 35 U.S.C. 103(a)?

6. Has the Examiner made a prima facie case of obviousness regarding the rejection of claims 63-64 and 84 pursuant to 35 U.S.C. 103(a)? (Exmainer failed to include Shaw in the rejection statement, yet includes it in part of the analysis.)

7. Has the Examiner made a prima facie case of obviousness regarding the rejection of claims 74-75 pursuant to 35 U.S.C. 103(a)?

8. Has the Examiner made a prima facie case of obviousness regarding the rejection of calims 14, 72-73, based on the Examiner ignoring positively recited limitations?

V. Argument

A. Group 1

1. The Examiner has failed to make a prima facie case of anticipation regarding the rejection of claims 1, 3, 5-6, 20, 62, 76-77 pursuant to 35 U.S.C. 102(b).

In response to the Office Action preceding the Final Office Action dated December 17, 2008, Appellant contended that Shaw et al. does not disclose or teach that which is recited in the independent claims 1, 3, and 76, including: "translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine" [emphasis added by Appellant]. (Note too Applicant's response with respect to claims 5-6, 20, 62, and 76-77.)

The Examiner has responded in the Final Office Action by contending that "Shaw et al. discloses the exercise monitoring analyzer programs may be written in a machine language, or at a higher language using procedures appropriate for the actual microprocessor in use, to execute the required computations here before described. A suitable computer for exercise monitoring analyzer is a general purpose microprocessor, such as a IBM PC. Alternately, one or more microprocessors similar to the IBM PC may be suitably interconnected and programmed to perform the functions required of the exercise monitoring analyzer (col. 18, lines 13-25)". See pp. 2-3.

It is respectfully submitted that the Examiner's contentions are incongruent with the recited clam elements, and Applicant maintains that Shaw does not teach the claimed operation of translating in the context of the independent claims, each as a whole.

Appellant's recited operations of "translating the private personalized exercise routine… to a different personalized private exercise routine for each different type of user selected exercise machine" is in no way anticipated by a teaching of the exercise monitoring analyzer programs

being written in different languages, or on a general purpose microprocessor. The first issue is that "translating the private personalized exercise routine" is that the translation is of an exercise routine, *not a progam* as the Examiner has appearently interpreted the claims to mean. Plainly claimed, an "exercise routine" is not a programming language.

The second issue is that these claims call for "translating…exercise routine…to a different..exercise routine", i.e., translating from a first exercise routine to a different exercise routine for different exercise equipment, not from one programming language to another. When a user takes their "exercise routine" from one piece of exercise equipment to another, their "exercise routine" is saved on a portable device, and when it is used in a each said "different type of user-selected exercise equipment" the exercise routine is "translated" into an "exercise routine" useful with the "different type of user-selected exercise equipment". (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. See Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9.) It appears that the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed elements to construct a rejection, which is contrary to giving the claims their broadest reasonable interpretation *consistant with the teachings of the specification*.

Because at least one claim element has not been shown in the cited art, the Final Rejection fails to make out a case of prima facie statutory anticipation, and the rejection is therefore improper.

B. Group 2

1. The Examiner has failed to make out a prima facie case of obviousness regarding the rejection of claim 4 pursuant to 35 U.S.C. 103(a).

As stated above, in response to the Office Action preceding the Final Office Action dated December 17, 2008, Appellant contended that Shaw et al. does not disclose or teach that which is recited in the independent claim 1, including: "translating the private personalized exercise

routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine" [emphasis added by Appellant].

With respect to the 102 rejection of the underlying claim 1, the Examiner has responded in the Final Office Action by contending that "Shaw et al. discloses the exercise monitoring analyzer programs may be written in a machine language, or at a higher language using procedures appropriate for the actual microprocessor in use, to execute the required computations here before described. A suitable computer for exercise monitoring analyzer is a general purpose microprocessor, such as a IBM PC. Alternately, one or more microprocessors similar to the IBM PC may be suitably interconnected and programmed to perform the functions required of the exercise monitoring analyzer (col. 18, lines 13-25)". See pp. 2-3.

It is respectfully submitted that the Examiner's contentions are incongruent with the recited clam elements, and Applicant maintains that Shaw does not teach the claimed operation of translating in the context of the independent claims, each as a whole.

Appellant's recited operations of "translating the private personalized exercise routine… to a different personalized private exercise routine for each different type of user selected exercise machine" is in no way anticipated by a teaching of the exercise monitoring analyzer programs being written in different languages, or on a general purpose microprocessor. The first issue is that "translating the private personalized exercise routine" is that the translation is of an exercise routine, *not a progam* as the Examiner has appearently interpreted the claim to mean. Plainly claimed, an "exercise routine" is not a programming language.

The second issue is that these claims call for "translating…exercise routine…to a different..exercise routine", i.e., translating from a first exercise routine to a different exercise routine for different exercise equipment, not from one programming language to another. When a user takes their "exercise routine" from one piece of exercise equipment to another, their

"exercise routine" is saved on a portable device, and when it is used in a each said "different type of user-selected exercise equipment" the exercise routine is "translated" into an "exercise routine" useful with the "different type of user-selected exercise equipment". (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. See Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9.) It appears that the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed elements to construct a rejection, which is contrary to giving the claims their broadest reasonable interpretation *consistant with the teachings of the specification*.

The addition of Clem to attempt to make out an obviousness rejection does nothing to remedy the aforesaid deficiencies in the teachings of Shaw and Watterson et al. Further, Clem has not been shown to be prior art. Clem is a CIP filed on June 8, 2000. Applicant's first priority date is April 1, 2000.

Because at least one claim element has not been shown in the cited art, the Final Rejection fails to make out a case of prima facie statutory obviousness, and the rejection is therefore improper.

C. Group 3

1. The Examiner has failed to make a prima facie case of obviousness regarding the rejection of claims 7-11, 12-13, 60 and 88, 15-18, 21-24, 27-40, 42-43, 45, 49, 51, 53, 57-59, 66-69, 71, 79-82, 85-87, 78, 61, 48, 83, and 89 pursuant to 35 U.S.C. 103(a).

With regard to the rejection, please note that claim 78 has been rejected in body of the Final Rejection, in paragraph 14, but not in the Final Rejection header; claim 61 has been rejected in body of the rejection, in paragraph 28 but not in the header; claim 48 has been rejected in body of the rejection, in paragraph 31 but not in the header; and claim 83 has been rejected in body of the rejection, in paragraph 32 but not in the header.

In the response to the Office Action that preceded the Final Rejection, Applicant

contended that Watterson et al. and Shaw, in combination or individually, do not teach or render the Appellant's invention obvious. See Amendment and Response filed August 29, 2008. In the Final Office Action, the Examiner has been completely silent on the particular points raised in Applicant's Response with respect to the Examiner's obviousness contentions.

More particularly, Appellant reiterates that in response to the Office Action preceding the Final Office Action dated December 17, 2008, Appellant contended that Shaw et al. does not disclose or teach that which is recited in the underlying independent claims 1, 3, and 76, including: "translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine" [emphasis added by Appellant]. (Note too Applicant's response with respect to claims 5-6, 20, 62, and 76-77.)

The Examiner has responded with respect to the anticipation rejection of the underlying claims in the Final Office Action by contending that "Shaw et al. discloses the exercise monitoring analyzer programs may be written in a machine language, or at a higher language using procedures appropriate for the actual microprocessor in use, to execute the required computations here before described. A suitable computer for exercise monitoring analyzer is a general purpose microprocessor, such as a IBM PC. Alternately, one or more microprocessors similar to the IBM PC may be suitably interconnected and programmed to perform the functions required of the exercise monitoring analyzer (col. 18, lines 13-25)". See pp. 2-3.

It is respectfully submitted that the Examienr's contentions are incongruent with the recited clam elements, and Applicant maintains that Shaw does not teach the claimed operation of translating in the context of the independent claims, each as a whole.

Appellant's recited operations of "translating the private personalized exercise routine… to a different personalized private exercise routine for each different type of user selected exercise machine" is in no way anticipated by a teaching of the exercise monitoring analyzer programs

being written in different languages, or on a general purpose microprocessor. The first issue is that "translating the private personalized exercise routine" is that the translation is of an exercise routine, *not a progam* as the Examiner has appearently interpreted the claims to mean. Plainly claimed, an "exercise routine" is not a programming language.

The second issue is that these claims call for "translating…exercise routine…to a different..exercise routine", i.e., translating from a first exercise routine to a different exercise routine for different exercise equipment, not from one programming language to another. When a user takes their "exercise routine" from one piece of exercise equipment to another, their "exercise routine" is saved on a portable device, andwhen it is used in a each said "different type of user-selected exercise equipment" the exercise routine is "translated" into an "exercise routine" useful with the "different type of user-selected exercise equipment". (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. See Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9.) It appears that the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed elements to construct a rejection, which is contrary to giving the claims their broadest reasonable interpretation *consistant with the teachings of the specification*.

Watterson et al. may teach converting protocols between exercise equipment and computer systems, but not the claimed translating personalized private exercise routine … to a different personalized private exercise routine for each different type of user-selected exercise equipment. The translation of a communication protocol is not the same as translating personalized private exercise routine … to a different personalized private exercise routine for each different type of user-selected exercise equipment.

Again, protocol translation is not "translating…personalized private exercise routine…to a different..exercise routine" which translates from a first exercise routine to a different exercise routines for different exercise equipment, not from one protocol to another. When a user takes

their “exercise routine” from one piece of exercise equipment to another their “exercise routine” is saved on a portable device, when it is used in a each of the “different type of user-selected exercise equipment” the exercise routine is “translated” into an “exercise routine” useful with the “different type of user-selected exercise equipment”. (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9) Again, the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed limitations to construct a rejection, which appears contrary to giving the claims their broadest reasonable interpretation which is consistant with the teachings of the specification.

Further, Watterson et al. does not disclose the translating as claimed, “translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine”, nor does it teach storing and keeping a private personalized exercise routine in a portable memory device in the manner more precisely set out in the claims.

Moreover, in the Final Rejection, the Examiner has analogized logging into a network as equivalent to keeping information private in a portable memory device. Firstly, logging into a network is not the same as storing and keeping a private personalized exercise routine in a portable memory device, as recited in the independent claims at issue. Though logging onto a network may provide a method to access private information, a network is not a portable memory device with stored personalized private exercise routine information, as is more precisely stated in the claims.

Shaw et al. may teach storing information on a portable personal memory, however, Shaw does not teach protecting instructions as private to a user, nor does it provide for allowing a login process to the device in the manner claimed. Watterson et al. may provide for logging

onto a network system but does not teach logging onto a portable device for providing access and protecting instructions or routines as private to a user in the manner claimed. Nor does Watterson et al. teach private personalized exercise routines, and infact Watterson et al. discloses openly tracking user's exercise activities between locations for tracking purposes (col. 36, lines 61-66), which is contray to storing private exercise routine.

Mahoney does not remedey any of the aforesaid deficiencies with respect to Shaw and Watterson et al.

Without the instant application there is no teaching or evidence to provide protecting instructions as private to a user on a portable storage device as obvious, without hide-sight reconstruction.

D. Group 4

1. The Examiner failed to make a prima facie case in the rejection of claims 63-64 and 84 pursuant to 35 U.S.C. 103(a).

As indicated above, in the response to the Office Action that preceded the Final Rejection, Applicant contended that Watterson et al. and Shaw, in combination or individually, do not teach or render the Appellant's invention obvious. See Amendment and Response filed August 29, 2008. In the Final Office Action, the Examiner has been completely silent on the particular points raised in Applicant's Response with respect to the Examiner's obviousness contentions.

More particularly, Appellant reiterates that in response to the Office Action preceding the Final Office Action dated December 17, 2008, Appellant contended that Shaw et al. does not disclose or teach that which is recited in the independent claims 3 and 76, including: "translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine" [emphasis added by Appellant]. (Note too

Applicant's response with respect to claims 5-6, 20, 62, and 76-77.)

The Examiner has responded with respect to the anticipation rejection of the underlying claims in the Final Office Action by contending that "Shaw et al. discloses the exercise monitoring analyzer programs may be written in a machine language, or at a higher language using procedures appropriate for the actual microprocessor in use, to execute the required computations here before described. A suitable computer for exercise monitoring analyzer is a general purpose microprocessor, such as a IBM PC. Alternately, one or more microprocessors similar to the IBM PC may be suitably interconnected and programmed to perform the functions required of the exercise monitoring analyzer (col. 18, lines 13-25)". See pp. 2-3.

It is respectfully submitted that the Examienr's contentions are incongruent with the recited clam elements, and Applicant maintains that Shaw does not teach the claimed operation of translating in the context of the independent claims, each as a whole.

Appellant's recited operations of "translating the private personalized exercise routine… to a different personalized private exercise routine for each different type of user selected exercise machine" is in no way anticipated by a teaching of the exercise monitoring analyzer programs being written in different languages, or on a general purpose microprocessor. The first issue is that "translating the private personalized exercise routine" is that the translation is of an exercise routine, *not a progam* as the Examiner has appearently interpreted the claims 3 and 7 to mean. Plainly claimed, an "exercise routine" is not a programming language.

The second issue is that these claims call for "translating…exercise routine…to a different..exercise routine", i.e., translating from a first exercise routine to a different exercise routine for different exercise equipment, not from one programming language to another. When a user takes their "exercise routine" from one piece of exercise equipment to another their "exercise routine" is saved on a portable device, when it is used in a each said "different type of user-selected exercise equipment" the exercise routine is "translated" into an "exercise routine"

useful with the "different type of user-selected exercise equipment". (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. See Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9.) It appears that the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed elements to construct a rejection, which is contrary to giving the claims their broadest reasonable interpretation *consistant with the teachings of the specification*.

Watterson et al. may teach converting protocols between exercise equipment and computer systems, but not the claimed translating personalized private exercise routine … to a different personalized private exercise routine for each different type of user-selected exercise equipment. The translation of a communication protocol is not the same as translating personalized private exercise routine … to a different personalized private exercise routine for each different type of user-selected exercise equipment.

Again, protocol translation is not "translating…personalized private exercise routine…to a different..exercise routine" which translates from a first exercise routine to a different exercise routines for different exercise equipment, not from one protocol to another. When a user takes their "exercise routine" from one piece of exercise equipment to another their "exercise routine" is saved on a portable device, when it is used in a each of the "different type of user-selected exercise equipment" the exercise routine is "translated" into an "exercise routine" useful with the "different type of user-selected exercise equipment". (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9) Again, the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed limitations to construct a rejection, which appears contrary to giving the claims their broadest reasonable interpretation which is consistant with the teachings of the specification.

Further, Watterson et al. does not disclose the translating as claimed, "translating the

private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine", nor does it teach storing and keeping a private personalized exercise routine in a portable memory device in the manner more precisely set out in the claims.

Moreover, in the Final Rejection, the Examiner has analogized logging into a network as equivalent to keeping information private in a portable memory device. Firstly, logging into a network is not the same as storing and keeping a private personalized exercise routine in a portable memory device, as recited in the independent claims at issue. Though logging onto a network may provide a method to access private information, a network is not a portable memory device with stored personalized private exercise routine information, as is more precisely stated in the claims.

Shaw et al. may teach storing information on a portable personal memory, however, Shaw does not teach protecting instructions as private to a user, nor does it provide for allowing a login process to the device in the manner claimed. Watterson et al. may provide for logging onto a network system but does not teach logging onto a portable device for providing access and protecting instructions or routines as private to a user in the manner claimed. Nor does Watterson et al. teach private personalized exercise routines, and infact Watterson et al. discloses openly tracking user's exercise activities between locations for tracking purposes (col. 36, lines 61-66), which is contray to storing private exercise routine.

Further consideration is drawn to the combined teachings of Watterson et al. and Paterson, as these too fail to teach the "translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine".

While Peterson et al. may teach using a magnetic card to access equipment, Peterson et

al. fails to teach storing private personalized exercise routines and further the abitlity to translate those routines between different types of user selected machines. Though Watterson et al. may teach logging into a network, Watterson et al. fails to recite a VPN or virtual private network connection between different exercise devices (elliptical trainer, stationary bike, etc.) where their locations are specified.

Without the instant application there is no teaching or evidence to provide protecting instructions as private to a user on a portable storage device as obvious, without hide-sight reconstruction.

Because at least one claim element has not been shown in the cited art, the Final Rejection fails to make out a case of prima facie statutory obviousness, and the rejection is therefore improper.

E. Group 5

1. The Examiner failed to make a prima facie case of obviousness regarding the rejection of claims 14, 72-73, and 90 based on the Examiner ignoring positively recited limitations.

As indicated above, in the response to the Office Action that preceded the Final Rejection, Applicant contended that Watterson et al. and Shaw, in combination or individually, do not teach or render the Appellant's invention obvious. See Amendment and Response filed August 29, 2008. In the Final Office Action, the Examiner has been completely silent on the particular points raised in Applicant's Response with respect to the Examiner's obviousness contentions.

More particularly, Appellant reiterates that in response to the Office Action preceding the Final Office Action dated December 17, 2008, Appellant contended that Shaw et al. does not disclose or teach that which is recited in the independent claims 1, 3, and 76, including: "translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for

each different type of user-selected exercise machine" [emphasis added by Appellant]. (Note too Applicant's response with respect to claims 5-6, 20, 62, and 76-77.)

The Examiner has responded with respect to the anticipation rejection of the underlying claims in the Final Office Action by contending that "Shaw et al. discloses the exercise monitoring analyzer programs may be written in a machine language, or at a higher language using procedures appropriate for the actual microprocessor in use, to execute the required computations here before described. A suitable computer for exercise monitoring analyzer is a general purpose microprocessor, such as a IBM PC. Alternately, one or more microprocessors similar to the IBM PC may be suitably interconnected and programmed to perform the functions required of the exercise monitoring analyzer (col. 18, lines 13-25)". See pp. 2-3.

It is respectfully submitted that the Examienr's contentions are incongruent with the recited clam elements, and Applicant maintains that Shaw does not teach the claimed operation of translating in the context of the independent claims, each as a whole.

Appellant's recited operations of "translating the private personalized exercise routine… to a different personalized private exercise routine for each different type of user selected exercise machine" is in no way anticipated by a teaching of the exercise monitoring analyzer programs being written in different languages, or on a general purpose microprocessor. The first issue is that "translating the private personalized exercise routine" is that the translation is of an exercise routine, *not a progam* as the Examiner has appearently interpreted the underlying independent claims to mean. Plainly claimed, an "exercise routine" is not a programming language.

The second issue is that these claims call for "translating…exercise routine…to a different..exercise routine", i.e., translating from a first exercise routine to a different exercise routine for different exercise equipment, not from one programming language to another. When a user takes their "exercise routine" from one piece of exercise equipment to another, their "exercise routine" is saved on a portable device, and when it is used in a each said "different type

of user-selected exercise equipment" the exercise routine is "translated" into an "exercise routine" useful with the "different type of user-selected exercise equipment". (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. See Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9.) It appears that the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed elements to construct a rejection, which is contrary to giving the claims their broadest reasonable interpretation *consistant with the teachings of the specification*.

Watterson et al. may teach converting protocols between exercise equipment and computer systems, but not the claimed translating personalized private exercise routine … to a different personalized private exercise routine for each different type of user-selected exercise equipment. The translation of a communication protocol is not the same as translating personalized private exercise routine … to a different personalized private exercise routine for each different type of user-selected exercise equipment.

Again, protocol translation is not "translating…personalized private exercise routine…to a different..exercise routine" which translates from a first exercise routine to a different exercise routines for different exercise equipment, not from one protocol to another. When a user takes their "exercise routine" from one piece of exercise equipment to another their "exercise routine" is saved on a portable device, when it is used in a each of the "different type of user-selected exercise equipment" the exercise routine is "translated" into an "exercise routine" useful with the "different type of user-selected exercise equipment". (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9) Again, the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed limitations to construct a rejection, which appears contrary to giving the claims their broadest reasonable interpretation which is consistant with the teachings of the specification.

Further, Watterson et al. does not disclose the translating as claimed, "translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine", nor does it teach storing and keeping a private personalized exercise routine in a portable memory device in the manner more precisely set out in the claims.

Moreover, in the Final Rejection, the Examiner has analogized logging into a network as equivalent to keeping information private in a portable memory device. Firstly, logging into a network is not the same as storing and keeping a private personalized exercise routine in a portable memory device, as recited in the independent claims at issue. Though logging onto a network may provide a method to access private information, a network is not a portable memory device with stored personalized private exercise routine information, as is more precisely stated in the claims.

Shaw et al. may teach storing information on a portable personal memory, however, Shaw does not teach protecting instructions as private to a user, nor does it provide for allowing a login process to the device in the manner claimed. Watterson et al. may provide for logging onto a network system but does not teach logging onto a portable device for providing access and protecting instructions or routines as private to a user in the manner claimed. Nor does Watterson et al. teach private personalized exercise routines, and infact Watterson et al. discloses openly tracking user's exercise activities between locations for tracking purposes (col. 36, lines 61-66), which is contray to storing private exercise routine.

In response to Appellant's arguments that the limitations must be given weight, the Examiner has been completely silent when rending the Final Office Action.

As to claims 14, 72-73, and 90 the Examiner has improperly asserted that the language is "[n]on-functional descriptive matter. It is not functional interrelated with the useful acts of the

claimed invention and thus will not serve as limitation". However, the recited claim elements clearly recite machine operations involving specific datum and must be given weight.

Moreover, looking to the Examiner's citation of In re Lowery, id., which is directed to giving patentable weight to "data structures" stored in the memory of an apparatus, consistent with the Court's ruling, if an element is stored in memory of an apparatus, the element must be given patentable weight. Appellant believes, as the claims 14, 72-73, 90 are drafted, that the Examiner must give patentable weight to these limitations during examination.

Without the instant application there is no teaching or evidence to provide protecting instructions as private to a user on a portable storage device as obvious, without hide-sight reconstruction.

Because at least one claim element has not been shown in the cited art, the Final Rejection fails to make out a case of prima facie statutory obviousness, and the rejection is therefore improper.

F. Group 5

1. The Examiner failed to make a prima facie case of obviousness regarding the rejection of claims 74-75

As indicated above, in the response to the Office Action that preceded the Final Rejection, Applicant contended that Watterson et al. and Shaw, in combination or individually, do not teach or render the Appellant's invention obvious. See Amendment and Response filed August 29, 2008. In the Final Office Action, the Examiner has been completely silent on the particular points raised in Applicant's Response with respect to the Examiner's obviousness contentions.

More particularly, Appellant reiterates that in response to the Office Action preceding the Final Office Action dated December 17, 2008, Appellant contended that Shaw et al. does not disclose or teach that which is recited in the independent claims 1and 3, including: "translating

the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine" [emphasis added by Appellant]. (Note too Applicant's response with respect to claims 5-6, 20, 62, and 76-77.)

The Examiner has responded with respect to the anticipation rejection of the underlying claims in the Final Office Action by contending that "Shaw et al. discloses the exercise monitoring analyzer programs may be written in a machine language, or at a higher language using procedures appropriate for the actual microprocessor in use, to execute the required computations here before described. A suitable computer for exercise monitoring analyzer is a general purpose microprocessor, such as a IBM PC. Alternately, one or more microprocessors similar to the IBM PC may be suitably interconnected and programmed to perform the functions required of the exercise monitoring analyzer (col. 18, lines 13-25)". See pp. 2-3.

It is respectfully submitted that the Examienr's contentions are incongruent with the recited clam elements, and Applicant maintains that Shaw does not teach the claimed operation of translating in the context of the independent claims, each as a whole.

Appellant's recited operations of "translating the private personalized exercise routine… to a different personalized private exercise routine for each different type of user selected exercise machine" is in no way anticipated by a teaching of the exercise monitoring analyzer programs being written in different languages, or on a general purpose microprocessor. The first issue is that "translating the private personalized exercise routine" is that the translation is of an exercise routine, *not a progam* as the Examiner has appearently interpreted the underlyinh independent claims to mean. Plainly claimed, an "exercise routine" is not a programming language.

The second issue is that these claims call for "translating…exercise routine…to a different..exercise routine", i.e., translating from a first exercise routine to a different exercise routine for different exercise equipment, not from one programming language to another. When a

user takes their "exercise routine" from one piece of exercise equipment to another, their "exercise routine" is saved on a portable device, and when it is used in a each said "different type of user-selected exercise equipment" the exercise routine is "translated" into an "exercise routine" useful with the "different type of user-selected exercise equipment". (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. See Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9.) It appears that the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed elements to construct a rejection, which is contrary to giving the claims their broadest reasonable interpretation *consistant with the teachings of the specification*.

Watterson et al. may teach converting protocols between exercise equipment and computer systems, but not the claimed translating personalized private exercise routine … to a different personalized private exercise routine for each different type of user-selected exercise equipment. The translation of a communication protocol is not the same as translating personalized private exercise routine … to a different personalized private exercise routine for each different type of user-selected exercise equipment.

Again, protocol translation is not "translating…personalized private exercise routine…to a different..exercise routine" which translates from a first exercise routine to a different exercise routines for different exercise equipment, not from one protocol to another. When a user takes their "exercise routine" from one piece of exercise equipment to another their "exercise routine" is saved on a portable device, when it is used in a each of the "different type of user-selected exercise equipment" the exercise routine is "translated" into an "exercise routine" useful with the "different type of user-selected exercise equipment". (Figure 12 In block 68 the system 1 translates the exercise routine into machine-readable instructions for the actual machine type. Pg. 43, Para. 3, Lns. 8-9. and in Pg. 4, Para. 3, Lns. 6-9) Again, the Examiner has parsed the claim language out of context and applies unrelated interpretations of the claimed limitations to

construct a rejection, which appears contrary to giving the claims their broadest reasonable interpretation which is consistant with the teachings of the specification.

Further, Watterson et al. does not disclose the translating as claimed, "translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine", nor does it teach storing and keeping a private personalized exercise routine in a portable memory device in the manner more precisely set out in the claims.

Moreover, in the Final Rejection, the Examiner has analogized logging into a network as equivalent to keeping information private in a portable memory device. Firstly, logging into a network is not the same as storing and keeping a private personalized exercise routine in a portable memory device, as recited in the independent claims at issue. Though logging onto a network may provide a method to access private information, a network is not a portable memory device with stored personalized private exercise routine information, as is more precisely stated in the claims.

Shaw et al. may teach storing information on a portable personal memory, however, Shaw does not teach protecting instructions as private to a user, nor does it provide for allowing a login process to the device in the manner claimed. Watterson et al. may provide for logging onto a network system but does not teach logging onto a portable device for providing access and protecting instructions or routines as private to a user in the manner claimed. Nor does Watterson et al. teach private personalized exercise routines, and infact Watterson et al. discloses openly tracking user's exercise activities between locations for tracking purposes (col. 36, lines 61-66), which is contray to storing private exercise routine.

Netpulse.com does not remedey any of the aforesaid deficiencies with respect to Shaw and Watterson et al.

Without the instant application there is no teaching or evidence to provide protecting instructions as private to a user on a portable storage device as obvious, without hide-sight reconstruction.

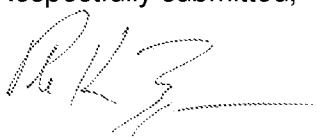
VI. CONCLUSION

As to the rejection of claims 1, 3, 5-6, 20, 62, 76-77 pursuant to 35 U.S.C. 102(b), the rejection is improper because at least one claim element for each said claim has not been shown in the cited art.

As to the "obviousness" rejections of the remaining pending claims, each of the claims being dependent, the aforesaid deficiencies carry through to the dependent claims. Thus, Appellent respectfully submits that the individual teachings of US Patent 4,817,940 (Shaw), 6,458,060 (Watterson et al.) fail to teach the claimed invention as a whole, and the additional teachings of 6,527,674 (Clem), 5,502,806 (Mohoney et al.) and Netpulse.com do not remedy the difficiencies in Shaw et al. and/or Watterson et al. Accordingly, the rejections are improper for failure to make out a prima facie case of obviousness pursuant to 35 U.S.C. 103(a).

Thus, for the reasons more fully set out above, all pending claims and the aforesaid groups of claims have not been shown unpatentable, and the rejection of them was in error, such that allowance is respectfully requested.

Respectfully submitted,



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VII. Claims Appendix

1. An apparatus to produce an exercise routine personalized by a user, the apparatus including:

a first computer system programmed so as to facilitate forming machine-readable instructions corresponding to a personalized exercise routine, wherein said machine-readable instructions are protected as private to the user;

a portable memory device storing the personalized exercise routine formed in the machine-readable instructions and received from the first computer system; and

a second computer system programmed to carry out operations comprising user-triggered enabling of:

translating the private personalized exercise routine, stored in the portable memory device and retrieved from the portable memory device, to a different personalized private exercise routine for each different type of user-selected exercise machine, controlling an exercise machine in carrying out the different personalized private exercise routine.

2. (Canceled)

3. An apparatus to create a personalized exercise routine, the apparatus including:

a first computer system programmed so as to provide at least one user interface that allows a user to select a type of exercise machine, and to create a private personalized exercise routine for a type of exercise machine that is selected;

a second computer system programmed so as to carry out operations including translating the private personalized exercise routine, stored in and retrieved from a portable memory device, to a different personalized private exercise routine for each different type of

user-selected exercise machine; and

wherein said second computer system is comprised of at least one of the types of exercise machine that carries out one said different exercise routine.

4. The apparatus of claim 1, wherein the operations include storing, in a personal account, medical information and a charge card number respectively corresponding to the user, wherein said account is maintained as personal to the user.

5. The apparatus of claim 1, wherein the operations include forming a profile of the user; and maintaining the profile of the user as personal to the user.

6. The apparatus of claim 3, wherein the operations include allowing a user profile to be formed and stored in a personal account that is maintained as personal to the user.

7. The apparatus of claim 3, wherein the exercise routine comprises-a cardiovascular routine; and wherein

signals corresponding to the exercise routine are communicated over a network to the different type of exercise machine.

8. The apparatus of claim 3, wherein said operations include:

allowing access, via a virtual private network, to a web-accessible library of modifiable preprogrammed routines; and

allowing modification of said preprogrammed routines.

9. The apparatus of claim 3, wherein the first computer system is

programmed so as to facilitate:

selecting a type of cardiovascular fitness machine as the different type of exercise machine, and specifying a duration of an exercise, a number of time intervals, an intensity, and a speed for each of the intervals.

10. The apparatus of claim 1, the first computer system is programmed so as to facilitate downloading and storing the exercise routine on the portable memory device that is physically transportable to said exercise machine to enable said user-triggered engaging step.

11. The apparatus of claim 10, wherein said storing includes storing by making an addition to a library of routines.

12. The apparatus of claim 3, further including wherein the operations include facilitating swiping at least one of a credit card or smart card for access to the different type of exercise machine.

13. The apparatus of claim 12, wherein said swiping is carried out with a card reader on a reception admission control system.

14. The apparatus of claim 3, wherein the operations include providing to the first computer system, via communication over a network, an agreement to abide by gym rules.

15. The apparatus of claim 5, wherein the operations include storing, in said profile, a charge card number associated with the user.

16. The apparatus of claim 3, wherein the operations include providing user access to the Internet at the exercise machine that carries out the one said different exercise routine.

17. The apparatus of claim 3, further including an interface for communicating at least some personal profile data between computer systems of different gyms.

18. The apparatus of claim 15, wherein the operations include enabling, with the stored charge card number, carrying out an on line purchase from the different type of exercise machine while exercising.

19. (Canceled)

20. The apparatus of claim 3, wherein the first computer system is programmed so as to facilitate forming a set of exercise routines translated to control different types of exercise machine, and storing the set in the portable memory device.

21. The apparatus of claim 5, wherein the operations include providing a control for at least one type of media including video, TV, e-mail, stock prices, news, horoscope, hobby information, Internet media, or an electronic magazine, the control being stored in the profile of the user.

22. The apparatus of claim 21, wherein the providing a control is carried out with two of the media.

23. The apparatus of claim 21, wherein the providing a control is carried out

with three of the media.

24. The apparatus of claim 23, wherein the operations include implementing the control by displaying media at said different type of exercise machine.

25. (Canceled)

26. (Canceled)

27. The apparatus of claim 7, further including a browser interface presented at said exercise machine to control Internet communication.

28. The apparatus of claim 3, further including a browser interface presented at said different type of exercise machine to control Internet communication.

29. The apparatus of claim 27, further including an interface for communicating the exercise routine to a controller between the Internet and the exercise machine.

30. The apparatus of claim 28, further including an interface for communicating the exercise routine to a controller between the Internet and the different type of exercise machine.

31. The apparatus of claim 5, wherein the operations include controlling with said profile to output to a display device and to a speaker jack at the exercise machine.

32. The apparatus of claim 6, wherein the operations include controlling, with said profile, interaction with Internet communication while exercising by use of a device that is at least one of a video game joystick on said different type of exercise machine or a flexible touch pad on at least one handle of the different type of exercise machine.

33. The apparatus of claim 6, wherein the operations include controlling with said profile programmed, hands-free, Internet communication.

34. The apparatus of claim 33, wherein said controlling includes controlling selectable content and presentation format coordinated with timing of the exercise routine.

35. The apparatus of claim 6, further including a sensor monitoring heart rate at the different type of exercise machine, and wherein the operations include storing said heart rate in said user profile.

36. The apparatus of claim 35, wherein wherein the operations include:
monitoring speed and intensity of the exercise routine; and
storing said speed and said intensity in said user profile.

37. The apparatus of claim 36, further including an interface for communicating signals corresponding to said heart rate, said speed, and said intensity in an Internet communication sent to the user of the first computer system.

38. The apparatus of claim 3, wherein the first computer system is

programmed to facilitate utilizing a calendar function to schedule use of the different type of exercise machine.

39. The apparatus of claim 3, wherein the first computer system is programmed so as to facilitate utilizing a calendar function to schedule use of a group of pieces of exercise machine.

40. The apparatus of claim 3, further including a virtual private network providing at least one user interface from the second computer system to the first computer system.

41. (Canceled)

42. The apparatus of claim 3, wherein the operations include formatting output at a display device at said different type of exercise machine, said formatting including selectable enlarging of the output.

43. The apparatus of claim 6, further including an interface enabling Internet navigation at said different type of exercise machine during exercising.

44. (Canceled)

45. The apparatus of claim 6, wherein the operations include:

permitting, at direction of the user, access to an exercise report, and storing the report in the profile.

46. (Canceled)

47. (Canceled)

48. The apparatus of claim 6, wherein the different type of exercise machine comprises one of at least a treadmill, an elliptical trainer, a stationary bike, a stationary ski machine, a stationary rowing machine, or a resistance type machine.

49. The apparatus of claim 6, wherein the first computer system is programmed so as to facilitate digitally specifying a location of the different type of exercise machine so that exercising is carried out at a location corresponding to at least one of a home, a home gym, a spa, an exercise facility of an apartment complex, and a hotel.

50. (Canceled)

51. The apparatus of claim 6, wherein the operations include maintaining a business operations database used in carrying out the translating.

52. (Canceled)

53. The apparatus of claim 6, wherein the operations include forming a client profile database containing a profile for each of a plurality of users.

54. (Canceled)

55. (Canceled)

56. (Canceled)

57. The apparatus of claim 6, wherein the operations include controlling output of visual and audio Internet media with said profile, the media including at least one of music, a video, multimedia, or chat.

58. The apparatus of claim 6, wherein the first computer system is programmed so as to facilitate optional viewing and configuring reports including intensity levels of the exercise routine and heart rate through a web browser interface.

59. The apparatus of claim 6, wherein the operations include providing, at the different type of exercise equipment, at least one user interface that includes a corresponding media display, the media from the group including at least one of video, audio, and text.

60. The apparatus of claim 6, wherein the operations include providing data to a resource pool database of available exercise machines.

61. The apparatus of claim 6, wherein the operations include enabling the user:

logging on to the second computer system by inputting an identification number and password.

62. The apparatus of claim 6, wherein the operations include facilitating input into said profile of the user's birth date, gender, weight, height, or health history.

63. The apparatus of claim 61, wherein the operations include facilitating input of membership of a gym into said profile.

64. The apparatus of claim 63, wherein the operations include communicating location of the gym and a gym membership identification number to the first computer system.

65. (Canceled)

66. The apparatus of claim 6, wherein the operations include providing a location indicator on the Internet to enable finding a gym capable of carrying out the translating.

67. The apparatus of claim 6, wherein the exercise routine on the portable memory device includes an instruction providing control over speed of the different type of exercise machine.

68. The apparatus of claim 6, wherein the operations include setting a filter of at least one of web subject matter or content in said profile.

69. The apparatus of claim 6, wherein the operations include controlling permission for another to form a group of users.

70. (Canceled)

71. The apparatus of claim 6, wherein the operations include accepting, with said second computer system, a gym registration application communicated from the first computer system.

72. The apparatus of claim 1, wherein the operations include accepting a gym registration application over a network.

73. The apparatus of claim 3, wherein the operations include accepting, with said second computer system, a gym registration application communicated from a computer of the user.

74. The apparatus of claim 3, wherein the operations include managing, with said second computer system, a gym membership.

75. The apparatus of claim 5, wherein the operations include managing gym membership, with said second computer system, including tracking fees of gym users and issuing invoices.

76. An apparatus including:

a computer system programmed so as to carry out the operations of translating a private personalized exercise routine, stored in and retrieved from a portable memory device, to a different private personalized exercise routine for each different type of user-selected exercise machine such that an exercise machine of at least one said type is controlled with one said different private personalized exercise routine.

77. The apparatus of claim 76, wherein:

the personalized exercise routine is stored in the portable memory device with respect to a first user-selected type of exercise machine;

and the operations include translating the exercise routine to an other type of user-selected exercise machine to enable carrying out the personalized exercise routine on the other type of exercise machine.

78. The apparatus of claim 76, wherein said apparatus comprises a computer system, where the exercise routine is formed, and programmed so as to facilitate user-triggered downloading of the exercise routine to the portable memory device.

79. The apparatus of claim 78, further including a virtual private network that allows access to the computer system in downloading the exercise routine from the portable memory device.

80. The apparatus of any one of claims 1, 3, or 76, wherein the operation of translating is carried out within a home gym.

81. The apparatus of claim 76, wherein the operations include specifying Para.meters of the exercise routine including type of machine, duration of session, intensity level, and pattern of variation of the intensity level.

82. The apparatus of claim 77, wherein the different type of exercise machine comprises one of at least a treadmill, an elliptical trainer, a stationary bike, a stationary ski

machine, a stationary rowing machine, or a resistance type machine.

83. The apparatus of claim 77, further including a user computer programmed so as to specify a location corresponding to the different type of exercise machine.

84. The apparatus of claim 76, wherein the operations include controlling access to said exercise machine, via a virtual private network of computer devices corresponding to exercise machines, by associating a user identification name and a password to each of said devices.

85. The apparatus of claim 77, wherein the operations include forming a client profile database containing a profile for each of a plurality of users.

86. The apparatus of claim 77, wherein the operations include facilitating access to a virtual private network in scheduling an exercise session in which the exercise routine is to be carried out, the scheduling being carried out through a web browser interface, and the scheduling including selecting a location, date, and time.

87. The apparatus of claim 86, wherein the operations include configuring web viewing through the web browser interface, including: configuring screens of the web 2browser, said web browser interface stored on the other exercise machine; and selecting types of content to be viewed while exercising.

88. The apparatus of claim 86, wherein the operations include facilitating initiation of the exercise routine by receiving identification to the different type of exercise

machine, the identification including at least one of a name and password on a keypad, information from a smart card to a reader, or information from a magnetic strip to a card reader.

89. The apparatus of claim 76, wherein the operations include communication of an indicator of a gym capable of carrying out the translating.

90. The apparatus of claim 77, wherein the operations include facilitating accepting, with said computer system, a gym registration application from a user personal computer.

VIII. Evidence Appendix

The following evidence document referred to above is identified below.

None

IX. Related Proceedings Appendix

There are no related proceedings.